

AMENDED IN SENATE SEPTEMBER 10, 2003

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE SEPTEMBER 3, 2003

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JULY 16, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 855

Introduced by Assembly Members Firebaugh and Levine

February 20, 2003

An act to add Section 14666.8 to the Government Code, to amend Section 280 of, and to add Section ~~709.5~~ 280.5 to, the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 855, as amended, Firebaugh. Telecommunications: access to state property for wireless facilities: California Teleconnect Fund Administrative Committee Fund: Digital Divide Account.

(1) Existing law requires the Director of General Services, with the approval of the state agency concerned, to negotiate, in the name of the state, access to state-owned property not used for highway purposes, for those purposes and subject to those conditions, limitations, restrictions,

and reservations determined by the director to be in the interest of the state. Existing law provides that this requirement to negotiate access applies to telecommunications and information technologies. Existing law requires, to the extent permitted under existing law, the Director of General Services to determine the amount of consideration for, and means of access, which means shall include, but not be limited to, lease, permit, or other form of providing a monetary or service consideration for the access.

Existing law imposes similar requirements on the Director of Transportation with respect to state-owned highway rights-of-way.

This bill would require the Director of General Services, within 120 days of the operative date of the bill, to compile and maintain an inventory of state-owned real property, excluding certain property, that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to provide a requesting party, upon payment of any applicable fee, with a copy of the inventory. It would authorize the director to negotiate and enter into an agreement for the lease of certain department-managed and state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.

This bill would require, notwithstanding any other provision of law, that any revenue collected from a lease entered into pursuant to this bill to use property that was acquired with money in a fund other than the General Fund be deposited into the fund from which it was obtained. The bill would further require that monies received and deposited in those funds be available upon appropriation by the Legislature notwithstanding any other provision of law.

(2) Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with an uncodified statute requiring the commission to open and conclude a proceeding relative to the implementation of universal service in telecommunications. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury and provides that monies in the fund, collected by telephone corporations in utility rates authorized by



the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act.

This bill would require the commission to develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations.

(3) Existing law requires the Public Utilities Commission to develop a plan to encourage the widespread availability and use of advanced communications infrastructure consistent with the state policy of bridging the digital divide.

The bill would require that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to its provisions, with certain exceptions, be deposited in the Digital Divide Account established by the bill in the California Teleconnect Fund Administrative Committee Fund. It would require the revenues deposited in the account to be available, upon appropriation by the Legislature, to be administered by the commission to finance digital divide projects through the Digital Divide Grant Program established by the bill. The bill would limit payment of administrative expenses to 5% of the revenues deposited into the account. The bill would require the commission to report to the Legislature and Governor annually on the effectiveness of the program.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Wireless telecommunications service is a critical part of
- 4 California's infrastructure.
- 5 (b) The rapid deployment of wireless telecommunications
- 6 facilities is critical to ensure network access and quality of service.
- 7 (c) It is in the public interest to minimize the aesthetic impact
- 8 of wireless telecommunications towers and facilities necessary to
- 9 support wireless networks.
- 10 (d) Use of property owned by the state, local government
- 11 agencies, and other public entities for location of wireless



1 telecommunications facilities will expedite deployment of
2 wireless telecommunications service and minimize the aesthetic
3 impact of wireless telecommunications towers and, facilities, or
4 other wireless repeaters, amplifiers, regenerative repeaters, or
5 regenerators that have the shape of natural or manmade structures
6 or objects.

7 SEC. 2. Section 14666.8 is added to the Government Code, to
8 read:

9 14666.8. (a) The director shall, within 120 days of the
10 operative date of this section, compile and maintain an inventory
11 of state-owned real property that may be available for lease to
12 providers of wireless telecommunications services for location of
13 wireless telecommunications facilities. This inventory shall be the
14 state's sole inventory of state-owned real property available for
15 this purpose. The term "state-owned real property," as used in this
16 section, ~~excludes state-owned or managed highway rights-of-way,~~
17 ~~properties managed or operated by the Department of~~
18 ~~Transportation, or any other property subject to Section 7901 of~~
19 ~~the Public Utilities Code.~~ *property owned or managed by the*
20 *Department of Transportation and property subject to Section*
21 *7901 of the Public Utilities Code.*

22 (b) The director shall provide, in a cost-effective manner, upon
23 payment of any applicable fee, a requesting party a copy of the
24 inventory.

25 (c) On behalf of the state, the director may negotiate and enter
26 into an agreement to lease department-managed and state-owned
27 real property to any provider of wireless telecommunications
28 services for location of its facilities. A lease for this purpose shall
29 do all of the following:

30 (1) Designate a lease rate to be paid to the state that is
31 acceptable to the director, consistent with existing law.

32 (2) Designate a lease term that is acceptable to the director and
33 the state agency that has control over the property. The duration of
34 the initial lease term for any wireless facility may not exceed 10
35 years, and the lease may provide for a negotiated number of
36 renewal terms, not to exceed five years for each term.

37 (3) Provide for the use of the wireless provider's facilities
38 located on the state-owned real property by any appropriate state
39 agency if technically, legally, aesthetically, and economically
40 feasible.

1 (4) Facilitate, to the greatest extent possible, agreements
2 among providers of wireless telecommunications services for
3 colocation of their facilities on state-owned real property.

4 (d) Nothing in this section alters any existing rights of
5 telegraph or telephone corporations pursuant to Section 7901 of
6 the Public Utilities Code.

7 (e) Notwithstanding any other provision of law, any revenue
8 collected from a lease entered into pursuant to this section to use
9 property that was acquired with money from a fund other than the
10 General Fund shall be deposited into the fund from which the
11 money was obtained. Money received and deposited into a fund
12 pursuant to this section shall be available upon appropriation by
13 the Legislature notwithstanding any other provision of law.

14 SEC. 3. Section 280 of the Public Utilities Code is amended
15 to read:

16 280. (a) The commission shall develop, implement, and
17 administer a program to advance universal service by providing
18 discounted rates to qualifying schools, libraries, hospitals, health
19 clinics, and community organizations, consistent with Chapter
20 278 of the Statutes of 1994.

21 (b) There is hereby created the California Teleconnect Fund
22 Administrative Committee, which is an advisory board to advise
23 the commission regarding the development, implementation, and
24 administration of a program to advance universal service by
25 providing discounted rates to qualifying schools, libraries,
26 hospitals, health clinics, and community organizations, consistent
27 with Chapter 278 of the Statutes of 1994, and to carry out the
28 program pursuant to the commission's direction, control, and
29 approval.

30 (c) All revenues collected by telephone corporations in rates
31 authorized by the commission to fund the program specified in
32 subdivision (a) shall be submitted to the commission pursuant to
33 a schedule established by the commission. Commencing on
34 October 1, 2001, and continuing thereafter, the commission shall
35 transfer the moneys received, and all unexpended revenues
36 collected prior to October 1, 2001, to the Controller for deposit in
37 the California Teleconnect Fund Administrative Committee Fund.
38 All interest earned by moneys in the fund shall be deposited in the
39 fund.

(d) Moneys appropriated from the California Teleconnect Fund Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(e) Moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are subject to Section 16320 of the Government Code. If the commission determines a need for moneys in the California Teleconnect Fund Administrative Committee Fund, the commission shall notify the Director of Finance of the need, as specified in Section 16320 of the Government Code. The commission may not increase the rates authorized by the commission to fund the program specified in subdivision (b) while moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are outstanding unless both of the following conditions are satisfied:

(1) The Director of Finance, after making a determination pursuant to subdivision (b) of Section 16320 of the Government Code, does not order repayment of all or a portion of any loan from the California Teleconnect Fund Administrative Committee Fund within 30 days of notification by the commission of the need for the moneys.

(2) The commission notifies the Director of Finance and the Chairperson of the Joint Legislative Budget Committee in writing that it intends to increase the rates authorized by the commission to fund the program specified in subdivision (a). The notification required pursuant to this paragraph shall be made 30 days in advance of the intended rate increase.

(f) Subdivision (e) shall become inoperative upon full repayment or discharge of all moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003.

SEC. 4. Section ~~709.5~~ 280.5 is added to the Public Utilities Code, to read:

~~709.5.~~—

280.5 (a) Of the revenues from fees collected pursuant to Section 14666.8 of the Government Code after the operative date of this section, except for revenues from fees from a lease

1 agreement for access to Department of Transportation property or
2 a lease agreement existing prior to the operative date of the section,
3 15 percent shall be available, upon appropriation by the
4 Legislature, for the purpose of addressing the state's digital divide.

5 (b) Revenues described in subdivision (a) shall be deposited in
6 the Digital Divide Account, which is hereby established in the
7 California Teleconnect Fund Administrative Committee Fund
8 established pursuant to Section 270, to be used only for digital
9 divide pilot projects. Not more than 5 percent of the revenues
10 described in subdivision (a), may be used to pay the costs incurred
11 in connection with the administration of digital divide pilot
12 projects by the commission.

13 (c) (1) The Digital Divide Grant Program is hereby
14 established subject to the availability of funding pursuant to this
15 section. The commission may not implement the grant program
16 until the commission projects that at least five hundred thousand
17 dollars (\$500,000) will be available in the Digital Divide Account
18 during the calendar year following implementation, based on
19 money collected pursuant to Section 14666.8 of the Government
20 Code.

21 (2) The commission shall provide grants pursuant to this
22 subdivision on a competitive basis subject to criteria to be
23 established by the commission and in a way that disburses the
24 funds widely, including urban and rural areas. Grants shall be
25 awarded to community-based nonprofit organizations that are
26 exempt from taxation under Section 501(c)(3) of the Internal
27 Revenue Code for the purpose of funding community technology
28 programs.

29 (3) Recipients of grants pursuant to this subdivision shall report
30 to the commission annually on the effectiveness of the grant
31 program.

32 (4) The commission shall report to the Legislature and the
33 Governor annually on the effectiveness of the program
34 administered pursuant to this subdivision.

35 (d) For purposes of this section, "community technology
36 programs" means a program that is engaged in diffusing
37 technology in local communities and training local communities
38 in the use of technology, especially local communities that
39 otherwise would have no access or limited access to the Internet
40 and other technologies.

1 (e) For purposes of this section, “digital divide projects”
2 means community technology programs involved in activities that
3 include, but are not limited to, the following:

4 (1) Providing open access to and opportunities for training in
5 technology.

6 (2) Developing content relevant to the interests and wants of
7 the local community.

8 (3) Preparing youth for opportunities in the new economy
9 through multimedia training and skills.

10 (4) Harnessing technology for e-government services.

11 SEC. 5. This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety
13 within the meaning of Article IV of the Constitution and shall go
14 into immediate effect. The facts constituting the necessity are:

15 In order to make state-owned real property available for lease,
16 and to make the resulting revenues available for addressing the
17 state’s digital divide, at the earliest possible time, it is necessary for
18 this act to go into immediate effect.

